REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 3, 4, 6-12, 14-16, 18, 19, 21-25, 27, 28, 30, and 32-35 are currently pending. Claims 1, 16, 25, and 34 have been amended by the present amendment. The changes to the claims are supported by the originally filed specification and do not add new matter.

In the outstanding Office Action, the specification was objected to; Claims 25, 27, 28, 30, 32 and 33 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter; Claims 1, 16, 25, and 34 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement regarding the "predetermined status" recited in those claims; and Claims 1, 3, 4, 6-12, 14-16, 18, 19, 21-25, 27, 28, 30 and 32-35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,108,782 to Fletcher et al. (hereinafter "the '782 patent") in view of U.S. Patent No. 6,430,613 to Brunet et al. (hereinafter "the '613 patent").

Applicants respectfully submit that the objection to the specification and the objection to the claims under 35 U.S.C. § 112, first paragraph, are rendered moot by the present amendment to the independent claims. The independent claims have been amended to no longer recite the term "predetermined status."

Applicants respectfully traverse the rejection of Claims 25, 27, 28, 30, 32, and 33 as being unpatentable under 35 U.S.C. § 101. In this regard, Applicants note that Claim 25 is directed to a non-transmission computer readable storage medium storing computer program code that, when executed by a computer, causes the computer to remotely monitor a monitored device. Thus, Claim 25 is clearly not directed to the program itself, as asserted by the outstanding Office Action, but is directed to a computer readable storage medium that

stores the computer program code. Further, Applicants respectfully submit that Claim 25 is directed to functional descriptive material, since it is clear that the computer program code recited in Claim 25 is related to the computer in that it causes the computer to remotely monitor a monitoring device. See MPEP § 2106, which clearly states that such claims are patentable. See also *In re Lowry*. Applicants note that the program code recited in Claim 25 clearly enables the computer to realize its functionality since it controls the computer. Further, regarding the question of transmission media, Applicants note that Claim 25, is on its face, directed to a non-transmission computer readable storage medium, and thus cannot encompass transmission media such as signals. In this regard, Applicants note that the Office Action implies that such since the specification supports computer readable medium being any transmission media, that the claims are not statutory. However, Applicants note that Claim 25 clearly excludes transmission media. Therefore, it is unclear to Applicants what the basis for the rejection is of Claim 25, since it is clearly not directed to transmission media. For the reasons stated above, Applicants respectfully traverse the rejection of Claim 25 (and all associated dependent claims) as being unpatentable under 35 U.S.C. § 101.

Regarding the rejection of Claim 1 under 35 U.S.C. § 103(a), the Office Action asserts that the '782 patent discloses everything in Claim 1 with the exception of device information being sent to the local monitoring computer using SNMP and automatically requesting status information at regular, predetermined intervals, and relies on the '613 patent to remedy those deficiencies.

The '782 patent is directed to a method for the distributed collection of network statistics, including the steps of gathering network statistics at a plurality of nodes distributed in a network; transmitting data containing the statistics to a collector; combining the statistics from the plurality of nodes into group network statistics; and reporting the network performance data based on the compiled statistics from the collector to a network manager,

wherein the multiple nodes correspond to a multicast poll from the collector, but that flooding of the collector is prevented by having each node delay its response by a random value. As shown in Figure 1, the '782 patent discloses a plurality of distributed remote network monitor (dRMON) agents that are software or software plus hardware components placed **within** a corresponding plurality of end stations (ESs). Further, the '782 patent discloses that, based on a polling packet from the collector, the dRMON agents forward their already collected statistics and/or capture packets to the dRMON collector, which exists somewhere in the network. Further, the '782 patent discloses that the dRMON agents are implemented in the C programming language and consist of executable code that is launched each time an end station is started or rebooted, and that the end station user is unaware of the agent's presence and can do nothing with regard to reconfiguring the end station.

However, as admitted in the outstanding Office Action, the '782 patent fails to disclose a local monitoring computer configured to collect status information from a monitored device connected to a first network using an SNMP protocol.

Further, as admitted in the outstanding Office Action, the '782 patent fails to disclose that the local monitoring computer is configured to automatically request the predetermined status information from the monitoring device over the first network at regular, predetermined intervals. In particular, Applicants respectfully submit that the '782 patent fails to disclose the local monitoring computer is configured to automatically request status information from the monitoring device at monitoring times separated by a predetermined period, as recited in amended Claim 1.

Further, Applicants respectfully submit that the '782 patent fails to disclose that after initialization of the local monitoring computer, the local monitoring computer is configured to automatically send the corrected status information to the remote monitoring computer at predetermined time intervals, without receiving any of the instructions from the remote

monitoring computer requesting that the collected status information be sent. In this regard, Applicants note that the Office Action relies on column 6, lines 25-28 and column 9, lines 65 and 66 in the '782 patent as disclosing this limitation, prior to the current amendment. However, Applicants note that the passage in column 6 of the '782 patent merely states that the dRMON agents forward statistics and/or captured packets to a dRMON collector. Further, the passage in column 9 of the '782 patent merely discloses that the collector program loads automatically when the system starts. These passages, and the '782 patent in general, do not disclose the sending of status information from the dRMON collector to any remote monitoring computer at predetermined time intervals, as required by amended Claim 1.

The '613 patent is directed to a process and system for network and system management, wherein the process includes at least a submanager (COACH) located between a main manager (AD) and equipment units of a local area network. As shown in Figure 1, the '613 patent discloses that each end terminal (ET) includes an agent. Further, the '613 patent discloses that the submanagers at the local network level include a kernel module N as well as a plurality of modules that communicate with the kernel module. Regarding the collecting of information from the terminal equipment, the '613 patent discloses that alarms may be sent to the alarm filtering module (MFA) at the local submanager level, wherein the alarms are filtered before being sent to the main manager.

However, Applicants respectfully submit that the '613 patent is silent regarding a local monitoring computer that is configured to automatically request status information from the monitoring device using the SNMP protocol. In this regard, Applicants note that the Office Action refers to column 6, lines 1-8 and Figure 1 as disclosing this limitation. However, Applicants note that column 6, lines 1-8 in the '613 patent do not mention SNMP. The '613 patent does not disclose that the SNMP protocol is used by the COACH level

managers to communicate with the end terminals to obtain status information from the N terminals.

Further, Applicants respectfully submit that the '613 patent fails to disclose that the local monitoring computer is configured to automatically request the status information from the monitored device over the first network at monitoring times separated by a predetermined period, without any receiving any instructions from the remote monitoring computer requesting that the information be collected from the monitoring device, as recited in amended Claim 1. Rather, the '613 patent discloses that alarms are sent by the end terminals to the COACH level objects based on certain events. While the '613 patent discloses the concept of "polling," this appears to be primarily limited to polling among and between the objects at the submanager level and the manager level. For example, in column 6 of the '613 patent, the '613 patent discloses that the submanager is polled by the manager, and that each object polls the kernel.

Further, Applicants respectfully disagree with the Examiner's comments on pages 11 and 12 that a polling period is equivalent to regular, periodic intervals. First, Applicants note that the Office Action merely concludes that polling is a repeated event. However, this is simply not true, since polling can be done only once. Further, Applicants disagree that it is implicit that a polling period is regular "since the polling and computing occurs in pre-established time intervals." Applicants note that this statement amounts to a statement that a period is regular because a period is regular. However, Applicants note that the word "period" can simply mean a single time interval having a given start time and a given end time. For example, there are many periods in history that are simply a single time interval. Thus, Applicants note that Claim 1 has been amended to clarify that the monitoring times are separate by a predetermined period. Since the multiple monitoring times are separated by a

same predetermined period, it is clear that the monitoring times occur at regular time intervals.

Further, Applicants respectfully submit that the '613 patent fails to disclose that after initialization of the local monitoring computer, the local monitoring computer is configured to automatically send the collected status information to the remote monitoring computer at predetermined time intervals. Applicants respectfully submit that the '613 patent is silent regarding, for example, communication from the COACH level to the manager level at predetermined time intervals, as required by amended Claim 1.

Thus, no matter how the teachings of the '782 and '613 patents are combined, the combination does not teach or suggest the local monitoring computer being configured to automatically send the collected status information to the remote monitoring computer at predetermined time intervals, without receiving any instructions from the remote monitoring computer requesting that the collected status information be sent, as recited in amended Claim 1. Further, Applicants respectfully submit that no matter how the teachings of the '782 and '613 patents are combined the combination does not teach or suggest automatically requesting the status information from the monitoring device over the first network at monitoring times separated by a predetermined period, or the collection by the local monitoring computer of status information from a monitoring device using the SNMP protocol, as required by Claim 1.

Independent Claims 16, 25, and 34 recite limitations analogous to the limitations recited in Claim 1. Moreover, Claims 16, 25, and 35 have been amended in a manner analogous to the amendment to Claim 1. Accordingly, for the reasons stated above, Applicants respectfully submit that the rejections of Claims 16, 25, and 34 (and all associated dependent claims) are rendered moot by the present amendment to the Claim 1.

Thus, it is respectfully submitted that independent Claims 1, 16, 25, and 34 (and all associated dependent claims) patentably define over any proper combination of the '782 and '613 patents.

Consequently, in view of the present amendment and in light of the above discussion, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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